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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)

C. Douglass Thomas)

Application No: 09/098,279)

Filed: June 16, 1998)

For: METHOD AND SYSTEM FOR REMOTE)
MONITORING AND CONTROL OVER A)
COMPUTER NETWORK)

Docket No: ATC1P001

Group Art Unit: 2613

Examiner: Vo, Tung T.

Date: May 21, 2003

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on **May 21, 2003**.
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TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION -- 37 CFR 192)

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This Appeal Brief is in furtherance of the Notice of Appeal filed in this case on February 19, 2003. This Appeal Brief is transmitted in triplicate:

This application is on behalf of:

☒ Small Entity   ☐ Large Entity

Pursuant to 37 CFR 1.17(f), the fee for filing the Appeal Brief is:

☒ $160.00 (Small Entity) ☐ $320.00 (Large Entity)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply:

Attorney Docket No. ATC1P001   -1-   USSN 09/098,279

☒ Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

Months	Large Entity	Small Entity
☒ one	$110.00	$55.00
☐ two	$400.00	$200.00
☐ three	$920.00	$460.00
☐ four	$1,440.00	$720.00

If an additional extension of time is required, please consider this a petition therefor.

☐ An extension for __ months has already been secured and the fee paid therefor of $ is deducted from the total fee due for the total months of extension now requested.

☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time.
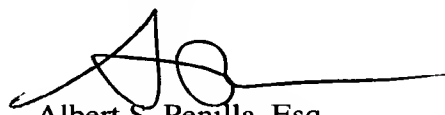
Total Fees Due:

Notice of Appeal Fee	$160.00
Extension Fee (if any)	$55.00
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☒ Please charge fees or credit any overpayment to Deposit Account No. 50-0850, (Order No. ATC1P001). Two copies of this transmittal are enclosed.

Respectfully submitted,
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

EX PARTE THOMAS ET AL.

Application for Patent

Filed June 16, 1998

Serial No. 09/098,279

Group Art Unit 2613

Examiner: VO, Tung T.

FOR:

METHOD AND SYSTEM FOR REMOTE MONITORING AND
CONTROL OVER A COMPUTER NETWORK

APPEAL BRIEF

TABLE OF CONTENTS

TABLE OF AUTHORITIES

REAL PARTY IN INTEREST

The real party in interest are the inventors.

RELATED APPEALS AND INTERFERENCES

It is believed that there are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF THE CLAIMS

This application was filed June 16, 1998 claiming domestic priority of U.S. Provisional Application No. 60/051,489, filed July 1, 1997. Claims 1, 4, 8, 26 and 31 were amended and claim 3 was cancelled in Amendment (A) filed on January 29, 2001. Claims 1, 8, 12, 13 and 26 were amended, and claims 6 and 10 were cancelled by Amendment (B) on October 1, 2001. Claims 19-25 were cancelled by Amendment (C) filed on February 22, 2002. Claims 32-44 were added by Supplemental Amendment (D) filed on February 25, 2002. In a Second Supplemental Amendment (E) filed on February 25, 2002, claims 1, 4, 7-9, 16-18, 33, 36, 39 and 44, and new claims 45-66 were added. Claims 1, 8, 39, 47, 49 and 52 were amended, and claims 32-38, 45-46 and 51 were cancelled. In a Final Office Action dated November 19, 2002 (Final Rejection), all claims (with the exception of claims 26-31) were finally rejected. Currently, claims 1, 2, 4, 5, 7-9, 11-18, 26-31, 39-44, 47-50 and 52-66 are pending and being appealed. No claim stands allowed.

STATUS OF AMENDMENTS

All Amendments filed have been entered.

CLAIMS ON APPEAL

The claims on appeal are reproduced below in Appendix A, as required by 37 CFR § 1.192(c)(7).

SUMMARY OF THE INVENTION

The invention relates to improved techniques to remotely monitor locations and/or detect activity at the locations. The monitoring and/or detecting is achieved over a network, such as global computer network. The improved techniques can advantageously operate on general purpose computers and can efficiently make use of network bandwidth.

The remote monitoring of locations can be achieved by efficiently transmitting images over a network to a remote machine located at a remote location. In one embodiment, the efficiency is facilitated by comparing a current image with a reference image, and then only transmitting the current image if it differs from the reference image by more than a predetermined threshold amount. The remote monitoring can also operate as an alarm system or provide intruder detection based on detected changes in images from a locally provided camera.

Further, in one embodiment, the transmitting of the images is done with electronic mail. In another embodiment, the images can be stored to an Internet server and thus are made remotely accessible over a network (e.g., global computer network) via a web browser application.

ISSUE

The issue presented on appeal is: Whether claims 1, 2, 4, 5, 7-9, 11-18, 26-31, 39-44, 47-50 and 52-66 are obvious over Pomerleau (U.S. Patent 5,091,780) in view of Crain (U.S. Patent 4,962,473) and further in view of Yonezawa et al. (U.S. Patent 6,266,082) ?

GROUPING OF CLAIMS

For this appeal, claims 1, 2, 4, 5, 7-9, 11-18, 26-31, 39-44, 47-50 and 52-66 do not stand or fall together. Instead, these claims are argued individually in the following argument.

ARGUMENT

I.   INTRODUCTION

The Examiner has finally rejected claims 1, 2, 4, 5, 7-9, 11-18, 39-44, 47-50 and 52-66 under 35 USC § 103 as being allegedly unpatentable over a combination of three of the cited references. It is also assumed that claims 26-31 are rejected under 35 USC § 103. Appellant (Appellants) will show that the Final Rejection is erroneous on several grounds. These various grounds are cumulative upon one another and thus should be considered in combination were appropriate.

First, Appellant will show that the cited references do not teach or suggest forming an electronic mail message for an interested user, and then electronically mailing an image from a camera to a remote computer over a network using the electronic mail message. Claims 1, 2, 4, 5, 7- 9, 11-18, 39-44, 47, and 48 recite these limitations.

Second, Appellant will show that the cited references do not teach or suggest signaling an activity condition by transmitting a message over a network to a remote computer, with the message including a video clip to enable viewing of the activity condition. Claims 26-31 recite these limitations.

Third, Appellant will show that the cited references do not teach or suggest transmitting a current image over the Internet to a remote computer

operating as an Internet server that stores images from a plurality of different computers and where an interested user is able to view at least certain of the images by accessing the Internet server via a web browser application on a user computer. Claims 49, 50 and 52-66 recite these limitations.

Fourth, Appellant will show that there is no motivation to the combine the references as the Examiner has done. Consequently, the Examiner's rejection of any of the claims crumbles when confronted with well settled law.

Fifth, Appellant will show that the cited references do not teach or suggest providing a distinctive audio or visual indication on the remote computer after electronically mailed surveillance image arrives at the remote computer. Claim 7 recites these limitations.

Sixth, Appellant will show that the cited references do not teach or suggest determining presence of an activity condition based on a motion indication signal provided by a motion detector. Claims 13 and 62 recite these limitations.

Seventh, Appellant will show that the cited references do not teach or suggest a motion detector mounted on a camera and used to provide a motion indication signal to detect an activity condition. Claim 63 recites these limitations.

II.   NONE OF THE CITED REFERENCES TEACH OR SUGGEST FORMING AN ELECTRONIC MAIL MESSAGE FOR AN INTERESTED USER, AND THEN ELECTRONICALLY MAILING AN IMAGE FROM A CAMERA TO A REMOTE COMPUTER OVER A NETWORK USING THE ELECTRONIC MAIL MESSAGE

Claim 1 pertains to a surveillance method for operating a general purpose computer to provide remote surveillance of an internal area of a building. According to the claimed method, a surveillance image is received from a local camera that is directed at the internal area of the building. Then, the surveillance image is compared with a reference image to produce a comparison result. The method detects presence of an activity condition based on the comparison result. An interested user is then notified of the activity condition when the presence of the activity condition is detected. Additionally, claim 1 recites

> wherein said notifying includes at least transmitting the surveillance image to a remote computer over a global computer network automatically when the activity condition is detected, and
> wherein said transmitting includes forming an electronic mail message having a predetermined mailing address, the predetermined mailing address being associated with the interested user, and electronically mailing the surveillance image to the remote computer over the network using the electronic mail message.

Claim 1, lines 11-17.

In the Final Office Action, the Examiner rejected claims 1, 2, 4-5, 7-9, 11-18, 39-44, 47-50 and 52-66 under 35 USC §103(a) as being unpatentable over *Pomerleau*, U.S. Patent 5,091,780, in view of *Crain*, U.S. Patent 4,962,473, and further in view of *Yonezawa et al.*, U.S. Patent 6,266,082. Appellant respectfully disagrees with the Examiner's rejection.

Pomerleau describes a security system that includes a device for monitoring an area under surveillance to acquire images, and a device for processing the images to determine whether the area is a desired state or an

undesired state. The processing device is trainable to learn the difference between the desired state and the undesired state. The security system also has an alarm 22 to sound an alert 40.

The alarm 22 of *Pomerleau* is not described as being capable of transmitting images over a global computer network. As shown in Fig. 3 of *Pomerleau*, the alarm 22 can have different outputs, including (1) a VCR 42 activated to record the intruder, (2) a local audible alarm 50 for scaring the intruder, (3) a guard alert 52 signal that notifies the on-site security guard of the intrusion, and (4) a police alarm 54 for summoning the authorities. *Pomerleau*, col. 6, lines 32-39.

Further, neither the alarm 22 nor the network buffer 21 are described or illustrated in *Pomerleau* as connecting to a global computer network. At best, the network buffer 21 contains weights 24 from training (col. 6, lines 29-31). The network 20 in *Pomerleau* appears to pertain to a neural network that is being trained to learn the difference between the desired state and the undesired state.

Hence, *Pomerleau* does not teach or suggest transmitting a surveillance image to a remote computer over a global computer network, let alone automatically transmitting when an activity condition is detected. Indeed, the Examiner has <u>admitted</u> that *Pomerleau* fails to teach use of an electronic mail message to transmit a surveillance image to a remote computer over a network. Final Office Action, page 3.

In an attempt to overcome the serious deficiencies of *Pomerleau*, the Examiner combines *Pomerleau* with *Crain* and *Yonezawa et al.* in order to reject the claims.

In *Crain*, there is no teaching or suggestion to transmit a surveillance image to a remote computer over a global computer network. In addition, *Crain* lacks any teaching or suggestion to use an electronic mail message to transmit a surveillance image to a remote computer over a global computer network.

Crain describes an emergency response system that includes an environment and security processor 35 that receives input video sources and can display such videos on displays at consoles, e.g., a command center console 14 and a guard post console 10. *Crain*, col. 4, lines 41-56. A LAN network 20 interconnects the command center console 14 and the guard post console 10. "All consoles are also directly coupled to a voice telephone system such as a private automatic branch (PABX) exchange 21 via telephone line circuits as 22, to allow access to the external telephone networks, as well as to local subscribers at the installation." *Crain*, col. 4, lines 45-49.

On page 3 of the Final Office Action, the Examiner points to col. 13, lines 33-68 of *Crain* as teaching or suggesting transmitting an electronic mail message of a surveillance image to a remote computer over the data network. *Crain*, however, is woefully deficient in providing such a teaching. At best, col. 13, lines 65-68 of *Crain* make mention of "electronic mail" in the context of other commercial or custom programs that can be installed on a console, such as the guard post console 10. These other commercial or custom programs can run on the console while the primary security control and communications functions are still operating and available. *Crain*, col. 13, line 67 to col. 14, line 2. Hence, at best, *Crain* merely indicates that separate programs, such as 3-D graphics and electronic mail programs, can also run on the consoles concurrent with the security control and communication functions. Further, there is nothing in *Crain* that suggests that electronic mail would be used to send video from the security processor 35 of any of the consoles 10, 11 or 14.

Accordingly, like *Pomerleau*, *Crain* also fails to teach or suggest automatically transmitting a surveillance image to a remote computer over a global computer network when an activity condition is detected. Indeed, these teachings in *Crain* are not enough to provide motivation for one of ordinary skill in the art to use an electronic mail message to transmit a surveillance image to a remote computer over a global computer network.

The Examiner does not appear to rely on the teachings of *Yonezawa et al.* in rejecting claim 1. *Yonezawa et al.* describes an image processing apparatus and method. The image processing apparatus includes a video transmitting terminal 20 that transmits video via a monitoring terminal 60 at a remote place via a network 100. The monitoring terminal 60 can send control signals to a video camera at the video transmitting terminal 20. Even if the Examiner were to rely on *Yonezawa et al.*, *Yonezawa et al.* likewise fails to teach or suggest use of an electronic mail message to transmit a surveillance image to a remote computer over a global computer network. *Yonezawa et al.* also fails to teach or suggest automatically transmitting a surveillance image to a remote computer over a global computer network when an activity condition is detected.

Accordingly, it is submitted that claim 1 is patentable distinct from the combination of *Pomerleau*, *Crain* and *Yonezawa et al.*

Claim 8 pertains to a system for providing remote visual monitoring of a location. The system includes a camera for obtaining an image of the location, a remote computer having a display device capable of viewing images, and a local general purpose computer. The local general purpose computer operates to receive the image from the camera and to determine whether an activity condition is present. Additionally, claim 8 recites

> *wherein said local general purpose computer automatically forwards the image to said remote computer over a global computer network when the activity condition is present, and said local general purpose computer does not forward the image to said remote computer over the network when the activity condition is not present, and*
> *wherein when forwarding the image to said remote computer over the network, said local general purpose computer automatically creates an electronic mail message to a predetermined user associated with the remote computer, the electronic mail message having the image included or attached thereto, and then automatically sends the electronic mail message to said remote computer for the predetermined user.*

Claim 8, lines 9-17.

Hence, claim 8 recites limitations similar to those discussed above regarding claim 1. Hence, it is submitted that claim 8 is patentable distinct from the combination of *Pomerleau, Crain* and *Yonezawa et al.* for at least similar reasons to those discussed above regarding claim 1.

Claim 39 pertains to a method for operating a general purpose computer to detect an activity condition using a camera. According to the claimed method, a reference image is received from a camera that is directed in a predetermined direction. The reference image is stored and then a current image is received from a camera directed in the predetermined direction. Then, the current image is compared with the reference image to detect an activity condition. The method transmits an electronic mail message, including the current image, over a global computer network to a remote computer.

Hence, claim 39 recites limitations similar to those discussed above regarding claim 1. Accordingly, it is submitted that claim 39 is patentable distinct from the combination of *Pomerleau, Crain* and *Yonezawa et al.* for at least similar reasons to those discussed above regarding claim 1.

Based on the foregoing, it is submitted that claim 1, 8 and 39 is patentably distinct over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* In addition, it is submitted that dependent claims 2, 4, 5, 7, 9, 11-18, 40-44, 47, and 48 are also patentably distinct over the cited references for at least the same reasons as their corresponding independent claim. Accordingly, it is respectfully requested that the Board reverse the Examiner's rejections and remand the application to the Examiner with directions to allow claims 1, 2, 4, 5, 7- 9, 11-18, 39-44, 47, and 48.

III. NONE OF THE CITED REFERENCES TEACH OR SUGGEST SIGNALING AN ACTIVITY CONDITION BY TRANSMITTING A MESSAGE OVER A NETWORK TO A REMOTE COMPUTER, WITH THE MESSAGE INCLUDING A VIDEO CLIP TO ENABLE VIEWING OF THE ACTIVITY CONDITION

Claim 26 pertains to a method for detecting an activity condition using a camera. According to the claimed method, a reference image is received from a camera that is directed in a predetermined direction. The reference image is stored and then a current image is received from a camera directed in the predetermined direction. Then, the current image is compared with the reference image to detect an activity condition. Additionally, claim 26 recites

> *signaling an alarm condition when said comparing detects the activity condition; the signaling of the alarm condition including the transmission of a message over a network to a remote computer, the message including a video clip to enabling viewing of the activity condition that caused the signaling of the alarm condition.*

Claim 26, lines 10-13.

In the Final Office Action, the Examiner neglected to formally rejected claims 26-31. Nevertheless, although not properly rejected, claims 26-31 are assumed for this Appeal Brief to be rejected under 35 USC §103(a) as being unpatentable over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.*

As previously noted, none of *Pomerleau, Crain* and *Yonezawa et al.* teach or suggest signaling an alarm condition by transmitting a message over a network to a remote computer. Further, these references do not teach or suggest transmitting a message that includes a video clip so as to allow viewing of the activity condition that caused the signaling of the alarm condition.

As previously noted, *Pomerleau* does not teach or suggest transmitting a surveillance image to a remote computer over a global computer network.

Moreover, the Examiner admits that *Pomerleau* fails to teach use of an electronic mail message to transmit a surveillance image to a remote computer over a network. Final Office Action, page 3.

In an attempt to overcome the serious deficiencies of *Pomerleau*, the Examiner combines *Pomerleau* with *Crain* and *Yonezawa et al.* in order to reject the claim 26.

In *Crain*, there is no teaching or suggestion to transmit a video clip (that enables viewing of the activity condition) to a remote computer over a network. In addition, *Crain* lacks any teaching or suggestion to use a message to transmit a video clip to a remote computer over a network.

Crain describes an emergency response system that includes an environment and security processor 35 that receives input video sources and can display such videos on displays at consoles, e.g., a command center console 14 and a guard post console 10. *Crain*, col. 4, lines 41-56.

At best, col. 13, lines 65-68 of *Crain* make mention of "electronic mail" in the context of other commercial or custom programs that can be installed on a console, such as the guard post console 10. These other commercial or custom programs can run on the console while the primary security control and communications functions are still operating and available. *Crain*, col. 13, line 67 to col. 14, line 2. Hence, at best, *Crain* merely indicates that separate programs, such as 3-D graphics and electronic mail programs, can also run on the consoles concurrent with the security control and communication functions. Further, there is nothing in *Crain* that suggests that electronic mail would be used to send video from the security processor 35 of any of the consoles 10, 11 or 14.

Indeed, these teachings in *Crain* are not enough to provide motivation for one of ordinary skill in the art to use a message to transmit a video clip (when the activity condition is detected) to a remote computer over a network. Accordingly, like *Pomerleau*, *Crain* also fails to teach or suggest transmitting a video clip to a remote computer over a network.

Yonezawa et al. describes an image processing apparatus and method. The image processing apparatus includes a video transmitting terminal 20 that transmits video via a monitoring terminal 60 at a remote place via a network 100. The monitoring terminal 60 can send control signals to a video camera at the video transmitting terminal 20. Even if the Examiner were to rely on Yonezawa et al., Yonezawa et al. likewise fails to teach or suggest use of a message to transmit a video clip (when the activity condition is detected) to a remote computer over a network.

Based on the foregoing, it is submitted that claim 26 is patentably distinct over Pomerleau in view of Crain and further in view of Yonezawa et al. In addition, it is submitted that dependent claims 27-31 are also patentably distinct over the cited references for at least the same reasons as their corresponding independent claim. Accordingly, it is respectfully requested that the Board reverse the Examiner's rejections and remand the application to the Examiner with directions to allow claims 26-31.

IV.   NONE OF THE CITED REFERENCES TEACH OR SUGGEST TRANSMITTING A CURRENT IMAGE OVER THE INTERNET TO A REMOTE COMPUTER OPERATING AS AN INTERNET SERVER THAT STORES IMAGES FROM A PLURALITY OF DIFFERENT COMPUTERS AND WHERE AN INTERESTED USER IS ABLE TO VIEW AT LEAST CERTAIN OF THE IMAGES BY ACCESSING THE INTERNET SERVER VIA A WEB BROWSER APPLICATION ON A USER COMPUTER

Claim 49 pertains to a method for operating a general purpose computer to detect an activity condition using a camera. According to the claimed method, a reference image is received from a camera that is directed in a predetermined direction. The reference image is stored and then a current image is received

from a camera directed in the predetermined direction. Then, the current image is compared with the reference image to detect an activity condition. Additionally, claim 49 recites

> *(f) transmitting at least the current image over a network to a remote computer upon detecting the activity condition,*
> *wherein the network comprises the Internet, and wherein the remote computer is an Internet server that stores images from a plurality of different cameras, and wherein an interested user is able to view at least certain of the images by accessing the Internet server via a web browser application on a user computer.*

Claim 49, lines 13-19.

In the Final Office Action, the Examiner rejected claim 49-50 and 52-66 under 35 USC §103(a) as being unpatentable over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Appellant respectfully disagrees with the Examiner's rejection.

The Examiner admits in the Final Office Action that "the combination of *Pomerleau* and *Crain* fails to specifically disclose the step of transmitting a message over a global computer network to the remote computer; wherein the remote computer is an Internet server that stores image from a plurality of different cameras, and wherein the interested user is thereafter able to view at least certain of the images from the local camera by accessing the Internet server via a web browser application on user's computer...." Final Office Action, page 4. Recognizing these deficiencies of *Pomerleau* and *Crain*, the Examiner relies on *Yonezawa et al.* in an effort to overcome these deficiencies.

Yonezawa et al. describes an image processing apparatus and method. The image processing apparatus includes a video transmitting terminal 20 that transmits video via a monitoring terminal 60 at a remote place via a network 100. The monitoring terminal 60 can send control signals to a video camera at the video transmitting terminal 20. The monitoring terminal 60 can also display video from the video transmitting terminal 20 via the network 100.

The Examiner's reliance on *Yonezawa et al.* fails to remedy the serious deficiencies of *Pomerleau* in view of *Crain*.

First, the monitoring terminal 60 in *Yonezawa et al.* is not described as storing images from a plurality of different cameras. The monitoring terminal 60 merely indicates that video data is received from the video transmitting terminal 20, decoded and then the decoded data is displayed. To store video data provided by a plurality of different cameras would require specialized, high capacity storage equipment. However, *Yonezawa et al.* does not teach or suggest storage of the video data at the monitoring terminal 60 or any such specialized storage equipment to provide such storage.

Second, as shown in Fig. 2, the monitoring terminal 60 uses software 410 which includes a camera control client 411, video reception software 412, and map management software 413. The "video reception software 412 for expanding compressed video data sent in the form of packet from the video communication terminal and displaying the expanding data" *Yonezawa et al.*, col. 5, lines 33-36. Clearly, the specialized video reception software 412 taught in *Yonezawa et al.* is <u>not</u> a web browser application and thus does not teach or suggest a web browser application as recited in claim 49.

Accordingly, *Yonezawa et al.* is unable to overcome the deficiencies of *Pomerleau* and *Crain*. Hence, it is submitted that claim 49 is patentably distinct over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.*

Claim 53 pertains to a surveillance method for operating a general purpose computer to provide remote surveillance of an internal area of a building. Among other things, claim 53 recites:

> *wherein said notifying includes at least transmitting the surveillance image to a remote computer over a network automatically when the activity condition is detected,*
> *wherein the network comprises the Internet, and wherein the remote computer is an Internet server that stores images from a plurality of different cameras, and wherein the interested user is thereafter able to view at least certain of the images from the local camera by accessing the Internet server via a web browser application on a user's computer.*

Claim 53, lines 10-16.

Hence, claim 53 recites limitations similar to those discussed above regarding claim 49. Hence, it is submitted that claim 53 is patentable distinct from the combination of *Pomerleau, Crain* and *Yonezawa et al.* for at least similar reasons to those discussed above regarding claim 49.

Claim 58 pertains to a system for providing remote visual monitoring of a location. Among other things, claim 58 recites

> *wherein said local general purpose computer automatically forwards the image to said Internet server over a network when the activity condition is present, and said local general purpose computer does not forward the image to said Internet server over the network when the activity condition is not present,*
> *wherein the network comprises the Internet, and*
> *wherein said Internet server stores the images forwarded thereto from said local general purpose computer, and wherein an interested user is thereafter able to view the images from the local camera by accessing the Internet server via a web browser application on said user's computer.*

Hence, claim 58 recites limitations similar to those discussed above regarding claim 49. Hence, it is submitted that claim 58 is patentably distinct from the combination of *Pomerleau, Crain* and *Yonezawa et al.* for at least similar reasons to those discussed above regarding claim 49.

Based on the foregoing, it is submitted that claims 49, 53 and 58 are patentably distinct over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* In addition, it is submitted that dependent claims 50, 52, 54-57 and 58-66 are also patentably distinct over the cited references for at least the same reasons as their corresponding independent claim. Accordingly, it is respectfully requested that the Board reverse the Examiner's rejections and remand the application to the Examiner with directions to allow claims 49, 50 and 52-66.

V. **THERE IS NO MOTIVATION TO COMBINE THE REFERENCES AS THE EXAMINER HAS DONE**

In rejecting the pending claims, the Examiner has relied on a selective combination of portions from three different references. The references utilized by the Examiner are: *Pomerleau, Crain* and *Yonezawa et al.*

The Examiner appears to arrive at the conclusion that the claims are unpatentable through hindsight analysis. As the Federal Circuit has so many times reiterated: "Hindsight analysis is clearly improper, since the statutory test is whether 'the subject matter as a whole would have been obvious at the time the invention was made.' " *In re Deminski*, 796 F.2d 436, 230 U.S.P.Q. 313 (Fed. Cir. 1986). That is, the selective combination of bits and pieces from each of the three references utilized by the Examiner to reject the claims is the result of hindsight gleaned from the invention itself. There is nothing in any of the cited references or any assertions as to the knowledge of those with ordinary skill in the art that would lead those skilled in the art to combine the references in the manner asserted by the Examiner.

The Examiner is bootstrapping the combination of references from an assertion of obviousness. This amounts to an improper rejection under 35 USC § 103. The combination of references must be itself motivated or suggested by the evidence of record before the combination may be used to support an obviousness rejection.

To support such rejections based on a combination of references, the Examiner is required to provide evidence that suggests the desirability of the combination. *King Instrument Corp. v. Otari Corp.,* 767 F.2d 853, 226 U.S.P.Q. 402 (Fed. Cir. 1985). In Final Office Action, the Examiner did not provide sufficient evidence of record that would suggest the desirability of these combinations. The Examiner has merely asserted that it would be *obvious* to those skilled in the art to combine specific features of each of the references to allegedly produce the claimed invention.

Furthermore, given the disparate teachings of *Pomerleau*, *Crain* and *Yonezawa et al.*, one skilled in the art would not be motivated to combine these reference in the manner that the Examiner proposes. Although col. 13, line 67 of *Crain* mentions electronic mail as another application that could be run on a user interface computer 66 with the security related application, the discussion is with respect to separate programs that are unrelated to one another. Thus, *Crain* provides no hint, motivation or suggestion to transmit notifications using messages, such as electronic mail messages, or to transmit surveillance images over a network (e.g., global computer network). Further, the remote monitoring capability described in *Yonezawa et al.* is not taught or suggested as being suitable for combination with the security system of *Pomerleau* or the emergency action system of *Crain*. Accordingly, it is respectfully submitted that the combination of Pomerleau with Crain and *Yonezawa et al.* is improper.

Based on the foregoing, it is submitted that the Examiner has failed to provide sufficient motivation within the cited references or the general knowledge of those with ordinary skill in the art which would lead one skilled in the art to combine the teachings of the references as the Examiner has done. Therefore, for this reason, it is further submitted that all claims are patentably distinct over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Accordingly, it is respectfully requested that the Board reverse the Examiner's rejections and remand the application to the Examiner with directions to allow claims 1, 2, 4, 5, 7-9, 11-18, 26-31, 39-44, 47-50 and 52-66.

VI. NONE OF THE CITED REFERENCES TEACH OR SUGGEST PROVIDING A DISTINCTIVE AUDIO OR VISUAL INDICATION ON THE REMOTE COMPUTER AFTER THE ELECTRONICALLY MAILED SURVEILLANCE IMAGE ARRIVES AT THE REMOTE COMPUTER

Claim 7 is a surveillance method that depends from claim 1. Claim 7 recites:

> *providing a distinctive audio or visual indication on the remote computer to notify the interested user of the receipt of the activity condition after the electronically mailed surveillance image arrives at the remote computer.*

Claim 7, lines 3-5.

In the Final Office Action, the Examiner rejected claim 7 under 35 USC §103(a) as being unpatentable over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Appellant respectfully disagrees with the Examiner's rejection.

Although the alert 40 is sounded to notify the user of an intruder, see *Pomerleau*, col. 5, lines 15-16, the alert 40 is at the security system 10, not at a remote computer. Neither *Crain* nor *Yonezawa et al.* fare any better.

Still further, nothing in any of these references pertains to an indication on the remote computer to notify an interested user of the receipt of an activity condition after the electronically mailed surveillance image arrives at the remote computer. The Examiner has not fully address these limitations. However, had the Examiner fully addressed the limitations, the Examiner would not be able to properly reject claim 7 as being unpatentable over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* These references not only lack any teaching or suggestion for remote notification at a remote computer, but also lack any teaching or suggestion to notify an interested user at the remote computer after the electronically mailed surveillance image has arrived.

Based on the foregoing, it is submitted that claim 7 is patentably distinct over the cited references. Accordingly, it is respectfully requested that the Board reverse the Examiner's rejection and remand the application to the Examiner with directions to allow claim 7.

VII.   NONE OF THE CITED REFERENCES TEACH OR SUGGEST DETERMINING PRESENCE OF AN ACTIVITY CONDITION BASED ON A MOTION INDICATION SIGNAL PROVIDED BY A MOTION DETECTOR

Claims 13 and 62 pertain to a system for providing remote visual monitoring of a location that depends from claims 8 and 58, respectively. Claims 13 and 62, among other things, recite:

> *wherein said system further comprises a motion detector for producing a motion indication signal, and*
> *wherein said local general purpose computer receives the motion indication signal and determines whether an activity condition is present based on the motion indication signal.*

Claim 13, lines 1-5; claim 62, lines 1-5.

In the Final Office Action, the Examiner rejected claims 13 and 62 under 35 USC §103(a) as being unpatentable over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Appellant respectfully disagrees with the Examiner's rejection.

Crain makes reference to a security and control subsystem that can include a motion detector. See Fig. 2 and *Crain*, col. 2, lines 22-26 and 49-65. However, *Crain* does not use a general purpose computer to receive a motion indication signal and determine whether an activity condition is present based on the motion indication signal. Moreover, *Crain* does not teach or suggest using such an activity condition to cause an acquired image to be automatically forwarded to an Internet server. *Pomerleau* and *Yonezawa et al.* do not appear to teach or suggest use of a motion detector.

Based on the foregoing, it is submitted that claims 13 and 62 are patentably distinct over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Accordingly, it is respectfully requested that the Board reverse the Examiner's rejections and remand the application to the Examiner with directions to allow claims 13 and 62.

VIII. NONE OF THE CITED REFERENCES TEACH OR SUGGEST A MOTION DETECTOR MOUNTED ON A CAMERA AND USED TO PROVIDE A MOTION INDICATION SIGNAL USED TO DETECT AN ACTIVITY CONDITION

Claim 63 pertains to a system for providing remote visual monitoring of a location that depends from claims 58 and 62. Claim 63, among other things, recites:

wherein said motion detector is mounted on said camera.

Claim 63, lines 1-2.

In the Final Office Action, the Examiner rejected claim 63 under 35 USC §103(a) as being unpatentable over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Appellant respectfully disagrees with the Examiner's rejection. Unfortunately, the Final Office Action makes no reference to the limitations recited in claim 63. Thus, it is submitted that the Examiner has failed to make out a *prima facie* rejection of claim 63.

Even if the Examiner has made an adequate rejection, none of *Pomerleau*, *Crain* or *Yonezawa et al.* teach or suggest mounting a motion detector on a camera. As noted above with respect to claim 62, the motion indication signal by the motion detector is used to detect an activity condition which is used to cause an acquired image to be automatically forwarded to an Internet server. *Crain* makes reference to a security and control subsystem that can include a motion detector, but nothing more. *Pomerleau* and *Yonezawa et al.* do not appear to teach or suggest any use of a motion detector.

Based on the foregoing, it is submitted that claim 63 is patentably distinct over *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* Accordingly, it is respectfully requested that the Board reverse the Examiner's rejections and remand the application to the Examiner with directions to allow claim 63.

CONCLUSION

Claims 1, 2, 4, 5, 7-9, 11-18, 39-44, 47-50 and 52-66 stand finally rejected under 35 USC § 103. It is also assumed that claims 26-31 are rejected under 35 USC § 103. Appellant has shown that the Examiner's rejection of the claims as being obvious from the combination of *Pomerleau* in view of *Crain* and further in view of *Yonezawa et al.* is erroneous. For the reasons set forth in this Appeal Brief, the Board should reverse the Final Rejection and should order the Examiner to pass this application to allowance.

Applicants hereby petition for a one month extension of time. The Notice of Appeal was received by the USPTO on February 24, 2003, setting a due date of April 24, 2003 to file the Appeal Brief. The one month extension of time extends the period for response to May 24, 2003.

The small entity fee for filing this Appeal Brief is $160.00, and the extension of time fee is $55.00. The fee total due is **$215.00**, and such amount should be charged to Deposit Account No. 50-0805 (Order No. ATC1P001).

If any additional fee is required in connection with the filing of this Appeal Brief, the Commissioner is authorized to charged Deposit Account No. 50-0805 (Order No. ATC1P001).

Respectfully Submitted,

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APPENDIX A

1.   (Four Times Amended) A surveillance method for operating a general purpose computer to provide remote surveillance of an internal area of a building, comprising:

receiving a surveillance image from a local camera directed at the internal area of the building;

comparing the surveillance image with a reference image to produce a comparison result;

detecting presence of an activity condition based on the comparison result; and

notifying an interested user of the activity condition when the presence of the activity condition is detected,

wherein said notifying includes at least transmitting the surveillance image to a remote computer over a global computer network automatically when the activity condition is detected, and

wherein said transmitting includes forming an electronic mail message having a predetermined mailing address, the predetermined mailing address being associated with the interested user, and electronically mailing the surveillance image to the remote computer over the network using the electronic mail message.

2.   A surveillance method as recited in claim 1, wherein said detecting of the presence of the activity condition comprises:

comparing the comparison result with a predetermined threshold;

detecting the presence of the activity condition when the comparison result exceeds the predetermined threshold; and

detecting the lack of presence of the activity condition when the comparison result does not exceed the predetermined threshold.

3.   Cancelled.

4.   (Once Amended) A surveillance method as recited in claim 1,
wherein the network comprises the Internet, and

wherein said transmitting operates to transmit the surveillance image over
the Internet to the remote computer.

5.   A surveillance method as recited in claim 4, wherein the remote
computer is one of a personal computer and a network server.

6.   Cancelled.

7.   (Once Amended) A surveillance method as recited in claim 1,
wherein said notifying further comprises:

providing a distinctive audio or visual indication on the remote computer to
notify the interested user of the receipt of the activity condition after the
electronically mailed surveillance image arrives at the remote computer.

8.   (Four Times Amended) A system for providing remote visual
monitoring of a location, said system comprising:

a camera for obtaining an image of the location;

a remote computer having a display device capable of viewing images,
said remote computer being remote from the location;

a local general purpose computer operatively connected to said camera,
said local general purpose computer operates to receive the image from the
camera and to determine whether an activity condition is present,

wherein said local general purpose computer automatically forwards the
image to said remote computer over a global computer network when the activity
condition is present, and said local general purpose computer does not forward
the image to said remote computer over the network when the activity condition
is not present, and

wherein when forwarding the image to said remote computer over the network, said local general purpose computer automatically creates an electronic mail message to a predetermined user associated with the remote computer, the electronic mail message having the image included or attached thereto, and then automatically sends the electronic mail message to said remote computer for the predetermined user.

9.   (Once Amended) A system as recited in claim 8, wherein the network comprises the Internet.

10.   Cancelled.

11.   A system as recited in claim 10, wherein said remote computer obtains the image that has been transmitted and displays the image on the display device.

12.   (Once Amended) A system as recited in claim 8, wherein said local general purpose computer determines whether an activity condition is present based on the image.

13.   (Once Amended) A system as recited in claim 8, wherein said system further comprises a motion detector for producing a motion indication signal, and
        wherein said local general purpose computer receives the motion indication signal and determines whether an activity condition is present based on the motion indication signal.

14.   A system as recited in claim 13, wherein said motion detector and said camera is directed at the location from approximately the same direction.

15. A system as recited in claim 14, wherein said motion detector is mounted on said camera.

16. (Once Amended) A system as recited in claim 8, wherein said system further comprises a security system having at least one sensor, and
wherein said security system detects an alarm condition, the activity condition is made to be present.

17. (Once Amended) A system as recited in claim 8, wherein said system further comprises a security system having at least one sensor, and
wherein said security system detects an alarm condition, said local general purpose computer causes the image and alarm status information to be forwarded over the network to said remote computer.

18. (Once Amended) A system as recited in claim 17, wherein the image and the alarm status information are displayed on a display device of said remote computer.

19. Cancelled.

20. Cancelled

21. Cancelled

22. Cancelled

23. Cancelled

24. Cancelled

25. Cancelled

26.   (Amended) A method for detecting an activity condition using a camera, comprising the acts of:

(a) receiving a reference image from a camera directed in a predetermined direction;

(b) storing a reference image;

(c) receiving a current image from a camera directed in the predetermined direction;

(d) comparing the current image with the reference image to detect an activity condition; and

(e) signaling an alarm condition when said comparing detects the activity condition; the signaling of the alarm condition including the transmission of a message over a network to a remote computer, the message including a video clip to enabling viewing of the activity condition that caused the signaling of the alarm condition.

27.   A method as recited in claim 26, wherein said signaling (e) of the alarm condition produces an audio sound.

28.   A method as recited in claim 26, wherein said signaling (e) of the alarm condition comprises:

storing a sequence of images from the camera upon detecting the activity condition so as to obtain a visual record of the alarm condition.

29.   A method as recited in claim 28, wherein said signaling (e) of the alarm condition further comprises:

producing an audio sound upon detecting the activity condition.

30.   A method as recited in claim 29, wherein said comparing (d) of the current image with the reference image to detect the activity condition comprises:

determining a difference value between the current image and the reference image;

comparing the difference value with a predetermined threshold value; and

detecting the activity condition when the difference value exceeds the predetermined threshold value.

31.	(Amended) A method as recited in claim 28, wherein the activity condition is indicates detection of an intruder, and wherein the sequence of images defines the video clip.

32.	Cancelled

33.	Cancelled

34.	Cancelled

35.	Cancelled

36.	Cancelled

37.	Cancelled

38.	Cancelled

39.	(Twice Amended) A method for operating a general purpose computer to detect an activity condition using a camera, comprising the acts of:

(a) receiving a reference image from a camera directed in a predetermined direction;

(b) storing a reference image;

(c) receiving a current image from a camera directed in the predetermined direction;

(d) comparing the current image with the reference image to detect an activity condition;

(e) signaling an alarm condition when said comparing detects the activity condition without using any special purpose hardware other than the general purpose computer and the camera; and

transmitting a message over a global computer network to a remote computer, the message including at least the current image,

wherein the message being transmitted to the remote computer is an electronic mail message.

40.   A method as recited in claim 39, wherein said signaling (e) of the alarm condition produces an audio sound.

41.   A method as recited in claim 40, wherein said signaling (e) of the alarm condition comprises:

storing a sequence of images from the camera upon detecting the activity condition so as to obtain a visual record of the alarm condition.

42.   A method as recited in claim 41, wherein said signaling (e) of the alarm condition further comprises:

producing an audio sound upon detecting the activity condition.

43.   A method as recited in claim 42, wherein said comparing (d) of the current image with the reference image to detect the activity condition comprises:

determining a difference value between the current image and the reference image;

comparing the difference value with a predetermined threshold value; and

detecting the activity condition when the difference value exceeds the predetermined threshold value.

44.   (Once Amended) A method as recited in claim 41, wherein the activity condition is indicates detection of an intruder, and wherein the sequence of images is a video clip.

45.   Cancelled.

46.   Cancelled.

47.   (Once Amended) A method as recited in claim 39, wherein said comparing (d) of the current image with the reference image to detect the activity condition comprises:

determining a difference value between the current image and the reference image;

comparing the difference value with a predetermined threshold value; and

detecting the activity condition when the difference value exceeds the predetermined threshold value.

48.   A method as recited in claim 47, wherein the message includes at least a video clip containing images from the camera that were obtained from the camera during or proximate in time to when the activity condition was detected, thereby enabling viewing of the activity condition that caused the signaling of the alarm condition.

49.   (Once Amended) A method for operating a general purpose computer to detect an activity condition using a camera, comprising the acts of:

(a) receiving a reference image from a camera directed in a predetermined direction;

(b) storing a reference image;

(c) receiving a current image from a camera directed in the predetermined direction;

(d) comparing the current image with the reference image to detect an activity condition;

(e) signaling an alarm condition when said comparing detects the activity condition without using any special purpose hardware other than the general purpose computer and the camera; and

(f) transmitting at least the current image over a network to a remote computer upon detecting the activity condition,

wherein the network comprises the Internet, and

wherein the remote computer is an Internet server that stores images from a plurality of different cameras, and wherein an interested user is able to view at least certain of the images by accessing the Internet server via a web browser application on a user computer.

50.   A method as recited in claim 49, wherein said transmitting operates to transmit at least a video clip containing images from the camera that were obtained from the camera during or proximate in time to when the activity condition was detected.

51.   Cancelled.

52.   (Once Amended) A method as recited in claim 49, wherein said comparing (d) of the current image with the reference image to detect the activity condition comprises:

determining a difference value between the current image and the reference image;

detecting the activity condition based on the different value.

53.   A surveillance method for operating a general purpose computer to provide remote surveillance of an internal area of a building, comprising:

receiving a surveillance image from a local camera directed at the internal area of the building;

comparing the surveillance image with a reference image to produce a comparison result;

detecting presence of an activity condition based on the comparison result; and

notifying an interested user of the activity condition when the presence of the activity condition is detected,

wherein said notifying includes at least transmitting the surveillance image to a remote computer over a network automatically when the activity condition is detected,

wherein the network comprises the Internet, and

wherein the remote computer is an Internet server that stores images from a plurality of different cameras, and wherein the interested user is thereafter able to view at least certain of the images from the local camera by accessing the Internet server via a web browser application on a user's computer.

54.   A surveillance method as recited in claim 53, wherein said notifying further includes sending an electronic mail message to the user's computer to inform the user of the activity condition or the availability of at least the surveillance image at the Internet server.

55.   A surveillance method as recited in claim 54, wherein said detecting of the presence of the activity condition comprises:

comparing the comparison result with a predetermined threshold;

detecting the presence of the activity condition when the comparison result exceeds the predetermined threshold; and

detecting the lack of presence of the activity condition when the comparison result does not exceed the predetermined threshold.

56.   A surveillance method as recited in claim 55, wherein said method operates without using any special purpose hardware other than the general purpose computer and the local camera.

57.   A surveillance method as recited in claim 54, wherein said method operates without using any special purpose hardware other than the general purpose computer and the local camera.

58.   A system for providing remote visual monitoring of a location, said system comprising:

a camera for obtaining an image of the location;

an Internet server for storing images, said remote computer being remote from the location;

a user's computer having a display device capable of viewing images, said user computer being remote from the location;

a local general purpose computer operatively connected to said camera, said local general purpose computer operates to receive the image from the camera and to determine whether an activity condition is present,

wherein said local general purpose computer automatically forwards the image to said Internet server over a network when the activity condition is present, and said local general purpose computer does not forward the image to said Internet server over the network when the activity condition is not present,

wherein the network comprises the Internet, and

wherein said Internet server stores the images forwarded thereto from said local general purpose computer, and wherein an interested user is thereafter able to view the images from the local camera by accessing the Internet server via a web browser application on said user's computer.

59.   A system as recited in claim 58, wherein said system further operates to send an electronic mail message to the interested user to inform the interested user of the activity condition or the availability of images at the Internet server.

60. A system as recited in claim 58, wherein said local general purpose computer forwards the image to said Internet server by establishing a network connection to the Internet, and directing the transmission of the image over the Internet to the Internet server.

61. A system as recited in claim 58, wherein said local general purpose computer determines whether an activity condition is present based on the image.

62. A system as recited in claim 58, wherein said system further comprises a motion detector for producing a motion indication signal, and

wherein said local general purpose computer receives the motion indication signal and determines whether an activity condition is present based on the motion indication signal.

63. A system as recited in claim 62, wherein said motion detector is mounted on said camera.

64. A system as recited in claim 58, wherein said system further comprises a security system having at least one sensor, and

wherein said security system detects an alarm condition, the activity condition is made to be present.

65. A system as recited in claim 58, wherein said system further comprises a security system having at least one sensor, and

wherein said security system detects an alarm condition, said local general purpose computer causes the image and alarm status information to be forwarded over the network to said Internet server.

66.   A system as recited in claim 65, wherein the image and the alarm status information are displayed on the display device of said user's computer after the interested user accesses the Internet server.